

**RULES  
OF  
TENNESSEE DEPARTMENT OF PERSONNEL**

**CHAPTER 1120-2  
EMPLOYMENT PRACTICES**

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**1120-2-.01 PURPOSE.** To give effect to the provisions of the Act and to establish methods for handling personnel activities and transactions based on accepted principles of public personnel administration.

**Authority:** T.C.A. §§8-30-201, 8-30-202, 8-30-203, and 8-30-204. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2) Repeal and new rule filed November 18, 1987; effective January 2, 1988.

**1120-2-.02 RESPONSIBILITY.** The Commissioner is responsible for administering the Act, these rules, and establishing policies and procedures.

**Authority:** T.C.A. §§8-30-201, 8-30-202, 8-30-203, and 8-30-204. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2) Repeal and new rule filed November 18, 1987; effective January 2, 1988.

**1120-2-.03 DIVISIONS OF STATE SERVICE.** The State service is divided into the career service and the executive service.

**Authority:** T.C.A. §8-30-208. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2) Repeal and new rule filed November 18, 1987; effective January 2, 1988.

**1120-2-.04 APPLICATION FOR EMPLOYMENT.**

- (1) Applying for Positions in the Career Service. All applications for employment in career service positions must be made on forms prescribed by the Commissioner.
- (2) Disqualification of Applicants. The Commissioner may refuse to examine or, after examination, may disqualify an applicant or remove an applicant's name from a register for a period of two (2) years, if the applicant:
  - (a) is found to lack any of the minimum or special qualification requirements established for the class of positions;
  - (b) is unable to perform an essential function of the position, with or without reasonable accommodation, because of a mental or physical impairment which substantially limits a major life activity or which results in a direct threat to the health or safety of the person or others;
  - (c) is addicted to the use of narcotics or the habitual use of intoxicating liquors to excess;
  - (d) has been convicted of a crime or has been guilty of any notoriously disgraceful conduct;

(Rule 1120-2-.04, continued)

- (e) has made a false application statement;
  - (f) has previously been dismissed from any public service for delinquency, misconduct, or other similar cause;
  - (g) has used or attempted to use political pressure or bribery to secure an advantage in examination or appointment;
  - (h) has directly or indirectly obtained information regarding an examination to which the applicant was not entitled;
  - (i) has failed to submit an application correctly or within the prescribed time limit;
  - (j) has taken part in the compilation, administration, or correction of the examination;
  - (k) has failed to appear for an examination;
  - (l) has otherwise violated provisions of this rule.
- (3) **Appeal of Removal from Registers.** An eligible whose name has been removed from a register for any of the reasons specified in T.C.A. 8-30-305 may appeal to the Commissioner for reconsideration. Such appeal must be filed in writing with the Commissioner within ten (10) calendar days after the postmark date of the notification. The Commissioner, after investigation, shall make a decision and notify the applicant accordingly.
- (4) **Discrimination.** No question on any form, application, or examination shall be phrased to elicit information concerning the political or religious opinions or affiliations of the applicant. No inquiry concerning such opinions or affiliations shall be made, and all disclosures will be disregarded. No question on any form, application, or examination should make preemployment inquiries of an applicant as to whether the applicant is a person with a disability, or as to the nature or severity of a disability, except for purposes of affirmative action under Section 503 of the Rehabilitation Act of 1973. Any such inquiry must comply with the requirements of the Americans with Disabilities Act. Preemployment medical examinations of applicants cannot be conducted, but offers of employment can be conditioned on the results of medical examinations conducted subsequent to an offer of employment to an applicant and prior to the applicant's actual employment. If a medical examination is required, all entering employees must be subjected to such examination. The handling of the results of all medical examinations must be in accordance with 28 CFR 42.513. No discrimination shall be exercised, threatened, or promised by any State employee against or in favor of any person in recruitment, examination, appointment, training, promotion, retention or other personnel actions, because of political affiliation, religious opinion, race, national origin, or any other non-merit factor. Discrimination on the basis of age, sex, or disability is prohibited except where specific age, sex, or physical requirements constitute a bona fide occupational qualification necessary for proper and efficient administration.

**Authority:** T.C.A. §§8-30-304 and 8-30-305. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994.

#### **1120-2-.05 EXAMINATIONS.**

- (1) **Notice of Examinations** - The Commissioner will give public notice of all examinations, at least two (2) weeks in advance of the closing date for receipt of applications, by posting notices throughout the State. Public notice of examinations will specify the title and salary range of the class of positions, the duties to be performed, the minimum or desirable qualifications required, the final date on which

(Rule 1120-2-.05, continued)

applications will be received, and other conditions of competition, including the relative weights assigned to the various parts in the examination.

- (2) **Promotional Examinations.** Promotional examinations may be limited to employees of an organizational unit or may be open to employees of all organizational units in the career service. The Commissioner shall determine and specify in the notice of examinations the classifications in an organizational unit or units eligible to compete. Any career service employee in such classification(s) in the organizational unit(s) shall be eligible to compete in the promotional examination, provided the employee possesses the minimum qualifications required for the class of positions for which the examination is held. The Commissioner will grant additional points to the examination scores of career employees who attain good, superior, or exceptional ratings on their probationary or annual performance evaluation as follows:

- (a) Good overall performance..... 1 performance bonus point
- (b) Superior overall performance..... 2 performance bonus points
- (c) Exceptional overall performance..... 3 performance bonus points

Performance bonus points are granted to employees only on promotional certificates of eligibles.

- (3) **Admission to Examinations.** Examinations will be open to all persons who meet the requirements specified in the public notices for such examinations. Each applicant admitted to an examination will be notified of the time, date and place of the examination. Any person not meeting the requirements for a class of positions may appeal the decision by requesting that the Commissioner reevaluate their qualifications. Persons reevaluated as meeting the requirements may then be admitted to the examination.
- (4) **Incumbents in Positions Added to the Career Service.** Persons in positions added to the career service may be given noncompetitive examinations within one (1) year after the establishment of the positions in the career service. The Commissioner will certify whether each employee so tested is qualified to become a career employee.
- (5) **Conduct of Examinations.** All examinations will be approved by the Commissioner with every precaution taken to prevent unauthorized persons from gaining knowledge of the nature or content of the tests that is not available to every applicant. Examinations will be conducted in locations throughout the State as necessary for the convenience of applicants and as practical for proper administration. Any applicant found to be using unauthorized materials during testing, or any applicant who in the opinion of the test monitor demonstrates inappropriate behavior shall be expelled from the examination.
- (6) **Scoring Examinations.** The Commissioner will determine a final examination score for each applicant in accordance with the weights established on the announcement of the examination. Failure in one part of any examination may disqualify the applicant for the entire examination.
- (7) **Reapplying for Examination.** Applicants rejected on the basis of minimum qualifications may reapply as soon as they can furnish evidence that they meet the required education, experience or special standards. Applicants failing a written or performance test or wanting to improve their current score, may retake the examination after a waiting period of thirty (30) days. Applicants may retake an examination a third time no earlier than six (6) months from the first examination date. An applicant's score is always based on the latest examination results. Applicants who want to improve their scores based on a rating of education and experience may reapply after six (6) months. Applicants may reapply for examination when changes in job minimum qualifications or examination method results in the abolishment of a register and the establishment of a new register.

(Rule 1120-2-.05, continued)

- (8) **Promotional Rating Update.** The Commissioner will establish a procedure and develop forms by which State employees may update scores based on a rating of education and experience after gaining additional education or experience.
- (9) **Rating Training and Experience.** When education, training and/or experience form a part or all of an examination, the Commissioner will establish a procedure for the evaluation of the education, training and experience qualifications, including approved Continuing Education Units (CEU's).
- (10) **Work-Test Period.** The Commissioner may substitute a work test period for any applicant with a disability who has been certified by the Division of Rehabilitation Services in the Department of Human Services as unable to take a written or performance examination. The probationary employment period shall constitute the work test period.
- (11) **Investigations.** The Commissioner or any appointing authority may investigate an applicant's education, training and experience to verify the statements contained in the application form or to verify statements regarding the applicant's character and fitness. If this investigation shows any falsification, the applicant may be removed from consideration for employment or, if employed may be dismissed and disqualified from future examinations. Lesser discrepancies in applicant information may result in a reevaluation of examination scores as necessary.
- (12) **Oral Examinations.** When an oral examination is part of the examination for a class of positions, the Commissioner will appoint one or more oral examination boards as needed.
- (13) **Notice of Examination Results.** The Commissioner will notify applicants by mail of their examination results as soon as scoring has been completed. Scores based on the rating of an employment application including education, experience and other merit factors as deemed appropriate, shall be reported to the applicant within ninety (90) days of the date of receipt of the application. Applicants will be permitted to inspect their papers and other records of the examination in person at the Department's Nashville office during business hours. An error in the scoring of any phase of an examination will be corrected, if called to the attention of the Commissioner, but such correction will not invalidate any appointment previously made to a class of positions.
- (14) **Examination Records.** The Commissioner will maintain all records pertinent to an examination program. Applications and other necessary examination records will be kept for two (2) years.
- (15) **Rescheduling Examinations.** When an applicant is unable to appear for an examination, the applicant may, upon satisfactorily showing the cause of his failure to appear, be granted permission by the Commissioner to take the examination at a later date.

**Authority:** T.C.A. §§8-30-222, 8-30-301, 8-30-302, 8-30-303, 8-30-306, and 8-30-307. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994.

#### **1120-2-.06 REGISTERS.**

- (1) **Establishment of Register.** The Commissioner will establish an employment register, roster of applicant names, for each career service job classification within 120 days of the notice of examination for the class of positions. The Commissioner may establish a promotional register, roster of employee names, in addition to or in lieu of an employment register. Only the names of persons obtaining an examination score of seventy (70) or greater may be added to a register.
- (2) **Supplementing Registers.** The Commissioner will routinely review existing employment registers to determine whether there is an adequate number of eligibles available to meet the needs of the service. When the Commissioner determines that a particular register is inadequate or is likely to become inadequate, the Commissioner may order a supplemental examination for the class of positions. The

(Rule 1120-2-.06, continued)

public announcement for supplemental examinations will give notice of the date that new names will be added to the current register.

Registers for job classifications examined on a continuous basis are supplemented daily as applicants are scored.

- (3) **Duration of Registers.** All scores based on a rating of an applicant's education, training and experience will be in effect for two (2) years unless the score is otherwise ruled ineligible or unless the register is abolished. All scores derived as a result of a written examination will remain in effect until such time as the written examination is revised or replaced. Subject to the limitations of the Act and these rules, the Commissioner may consolidate or cancel a register at any time after it has been established for six (6) months. If the Commissioner abolishes a register, each eligible on the register will be notified by mail of this fact.
- (4) **Removal of Names from a Register.**
  - (a) The name of an eligible will be removed or made inactive on a register for a class of positions under the following conditions:
    1. the eligible receives a regular appointment to a vacancy in that class of positions;
    2. a statement is filed with the Commissioner stating that the eligible is unwilling to accept appointment;
    3. an eligible declines an appointment offered under conditions the eligible had previously indicated would be acceptable;
    4. the eligible fails to respond within seven (7) days of the date of an invitation to interview;
    5. a new register is established;
    6. an eligible cannot be located by mail;
    7. an eligible falsifies his legal residence;
    8. any cause occurs as specified in the Act regarding the rejection or disqualification of applicants.
  - (b) The Commissioner may remove or make inactive on a register the name of an eligible who has been considered and rejected for three (3) different positions.
- (5) **Reinstatement to a Register.** An eligible's name may be reinstated to a register upon showing of satisfactory cause to the Commissioner.
- (6) **Notification.** Any eligible whose name is removed from a career service register for any reason will be notified in writing in accordance with procedures established by the Commissioner. Applicants will be notified upon initial receipt of their score that their name will be removed after two (2) years for classifications requiring a rating of training and experience. No further notification will be given.

**Authority:** T.C.A. §§8-30-222, 8-30-308, and 8-30-309. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994.

**1120-2-.07 VETERANS INFORMATION.**

- (1) **Veterans Preference Points.** The Commissioner will grant additional points to veterans attaining an examination score of seventy or greater in compliance with T.C.A. 8-30-306. Five points will be awarded to (1) an honorably discharged veteran who served during a period of war; (2) the spouse or unremarried surviving spouse of a permanently and totally disabled veteran whose disability was service-connected and who served in a period other than war; and (3) the unremarried surviving spouse of a veteran who died in the line of duty during a period other than war. Ten points will be awarded to (1) a veteran with a ten percent (10%) service-connected disability who served during a period of war; (2) the spouse or unremarried surviving spouse of a veteran with a one hundred percent (100%) service-connected disability and who served during a period of war; and (3) the unremarried surviving spouse of a veteran who died in the line of duty during a period of war. Veteran preference points are granted only to eligibles on original employment certificates.
- (2) **Passing over a Veteran.** An appointing authority who passes over an eligible veteran and selects a non-veteran with the same or lower rating must file with the Commissioner the reasons for such an action. Documentation of this action will become a part of the certification record.
- (3) **Placement of Names on Certificates of Eligibles.** The name of a veteran or the spouse or unremarried surviving spouse of a disabled veteran will be entered on a certificate of eligibles ahead of the name of a non-veteran when their ratings are the same.

**Authority:** T.C.A. §§8-30-308 and 8-30-310. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994.

**1120-2-.08 CERTIFICATION OF ELIGIBLES.**

- (1) **Request for Certification.** When a vacancy occurs in one or more established positions in a classification in the career service, the appointing authority may request a certificate of eligibles and/or a work test, layoff, transfer or reemployment list to fill the position(s) in a manner prescribed by the Commissioner.
- (2) **Methods of Certification.** The Commissioner will certify to the appointing authority the names of eligibles from the appropriate register or list for the classification. When requesting a certificate of eligibles for a flexibly staffed position the appointing authority may request a certificate for either the working level classification or for the trainee level classification.
- (3) **Employment Certificate.** An employment certificate contains the names of available eligibles listed in rank order of examination scores. Appointments from employment certificates must be made from the five (5) highest ranking eligibles plus any other eligible with a score equal to the score of the fifth ranked eligible. An appointing authority is not required to consider an employment certificate that contains the names of less than three (3) eligibles.
- (4) **Promotional Certificate.** A promotional certificate contains the names of available eligibles who are career employees, and who have a current performance rating of marginal or higher, listed in rank order of examination scores. Appointments from promotional certificates must be made from the three (3) highest ranking eligibles plus any other eligible with a score equal to the score of the third ranked eligible. An appointing authority is not required to consider a promotional certificate that contains the names of less than (3) three eligibles.
- (5) **Layoff List.** All career employees affected by a reduction in force shall be placed on a layoff list. Employees so listed shall have a priority right to transfer, promotion, or reappointment to the location or job classification held prior to any reduction in force.

(Rule 1120-2-.08, continued)

- (6) **Work Test List.** A list of qualified applicants with disabilities certified by the Division of Rehabilitation Services in the Department of Human Services as unable to take a written and/or performance examination required for employment to a particular classification.
- (7) **Reemployment/Reappointment List.** A list of persons who may be appointed to a class of positions without further certification or examination due to their prior career status in the classification or related classification.
- (8) **Transfer List.** A list of career or probationary employees in career service positions who wish to transfer to other agencies or locations in their current job classification.
- (9) **Selective Certification.** A special circumstance in which an individual position or group of positions in a classification may be placed into a sub-classification because they require unique or special qualifications. Any request for selective certification by an agency must have the prior written approval of the Commissioner. Appointments from a selective certificate of eligibles must be made from the top five (5) eligibles, employment certificate, or top three (3) eligibles, promotional certificate, possessing the special qualifications.
- (10) **Geographic and Organizational Construction of Certificates.** An appointing authority with the approval of the Commissioner may request any logical geographic breakdown for employment or promotional certificates and may request any definable work unit within an organization for promotional certificates.
- (11) **Contacting Eligibles on a Certificate.** All eligibles in the original top five (5) on employment certificates and the original top three (3) on promotional certificates will be contacted in writing by the appointing authority and invited to interview for the position prior to the final selection of a candidate for appointment or promotion. All eligibles who are interviewed but not selected will be notified in writing that they were not selected.
- (12) **Reinstatement on Registers.** Any employee who is terminated or resigns may have his name reinstated to the Career Service register from which appointed or promoted, provided the register has not been abolished and the applicant's score is not more than two (2) years old.
- (13) **Removal of Name from Certification.** Any applicant who has been considered for three different positions in the same classification in an agency will be ineligible for certification for other positions in that classification to that agency. This ineligibility will last until the expiration of the score in effect at the time of the third consideration or until the register is abolished, unless the appointing authority requests that the eligible's name be recertified.
- (14) **Noncompetitive Classifications.** Unskilled or semi-skilled classifications may be designated by the Commissioner as non-competitive. Appointments to noncompetitive classifications do not require a certificate of eligibles, but applicants for noncompetitive classifications must meet the minimum qualifications for the class of positions.

**Authority:** T.C.A. §§8-30-209, 8-30-308, 8-30-309, 8-30-311, 8-30-313, 8-30-317, 8-30-322, and 8-30-323.

**Administrative History:** (For history prior to January 2, 1988, see pages 1-2) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994.

**1120-2-.09 FILLING POSITIONS.** Positions may be filled by the promotion, transfer, demotion, or reduction in rank of current employees, reemployment of former employees or appointment of new employees.

- (1) **Career Service Positions.** All career service positions are permanent full-time positions. These positions may be filled on a permanent full-time basis (regular appointment) by persons who have been successful in a competitive process by being among the top available eligibles on a certificate of eligibles or who have achieved career status in a classification and have the right to be reemployed or

(Rule 1120-2-.09, continued)

reappointed to that classification or to a related classification to which they could be reclassified without further examination or certification as determined by the Commissioner.

Certain unskilled and semi-skilled classifications are designated "non-competitive" by the Commissioner. Qualified persons may be employed in these classifications on a permanent full-time basis (regular appointment) without competition.

Career service positions may be filled on a full-time temporary basis outside the competitive process by qualified persons as determined by the Commissioner by temporary provisional appointment, emergency appointment, or interim appointment. Career service positions may be filled on a part-time temporary basis outside the competitive process by a regular part-time appointment.

- (2) **Executive Service Positions.** Executive service positions may be permanent full-time, permanent part-time or seasonal part-time. These positions may be filled at the discretion of the appointing authority.
  - (a) Permanent full-time positions may be filled on a permanent basis either full-time or part-time by regular appointment, and may be filled on a temporary basis either full-time or part-time by temporary appointment and limited term appointment.
  - (b) Permanent part-time positions may be filled on a permanent part-time basis by regular appointment and may be filled on a temporary part-time basis by temporary appointment and limited term appointment.
  - (c) Seasonal part-time positions may be filled on a seasonal basis by seasonal appointment.
- (3) **Overlap.** An appointing authority may place more than one incumbent in a single position in an overlap status subject to budgetary limitations and the approval of the Commissioner.
- (4) **Job Sharing.** An appointing authority may place more than one part-time employee in a single full-time position in a job sharing status subject to budgetary limitations and the approval of the Commissioner. Positions used for job sharing are considered to be in the executive service.
- (5) **Mismatch.** An appointing authority with the approval of the Commissioner may appoint an incumbent to a classification different from the classification of the position, provided the incumbent's classification is not higher than the classification of the position.

For career service appointments the mismatch should be in the same or related classification series. The incumbent appointed should be able to meet the qualifications for the classification of the position upon attainment of additional education, experience or credentials which the appointing authority believes the incumbent is likely to achieve.

**Authority:** T.C.A. §§8-30-201, 8-30-202, 8-30-203, 8-30-204, 8-30-309, 8-30-311, 8-30-315, 8-30-316, 8-30-318, 8-30-322, and 8-30-323. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994.

#### **1120-2-.10 APPOINTMENTS.**

- (1) **Regular Appointment.** A regular appointment is an appointment to either a career or executive service position for an indeterminate period of time in the career service. A regular appointment is expected to continue contingent upon satisfactory performance and behavior by the employee and upon continued funding, classification and utilization of the position by the State. In the executive service a regular appointment is expected to continue at the pleasure of the appointing authority.



(Rule 1120-2-.10, continued)

- (2) **Temporary Provisional Appointment.** A temporary provisional appointment is an appointment to a full-time career service position for a period of service not to exceed four (4) months and may be made when there is an insufficient certificate of eligibles or no established register. Temporary provisional appointees must meet the minimum qualifications for the class of positions to which appointed. A temporary provisional appointment may not be renewed and no person can receive more than one (1) temporary provisional appointment in a twelve (12) month period. Temporary provisional appointments do not require the use of certificates or lists.
- (3) **Emergency Appointment.** An emergency appointment is an appointment to a full-time career service position for a period of service not to exceed one hundred twenty (120) days and may be made when conditions exist that necessitate an immediate short term appointment. Emergency appointees must meet the minimum qualifications for the class of positions to which appointed. An emergency appointment may not be renewed and no person may receive more than one (1) emergency appointment in a twelve (12) month period. Emergency appointments do not require the use of certificates or lists.
- (4) **Interim Appointment.** An interim appointment is an appointment to a full-time career service position for a period of service not to exceed one (1) year. The names of interim appointees must appear on the register for the class of positions to which appointed. The appointing authority may grant the employee a regular appointment in the position using the certificate of eligibles from which the interim appointment was made, provided:
  - (a) the employee was within the original top five (5) eligibles on an employment certificate or the original top three (3) eligibles on a promotional certificate,
  - (b) the rules for contacting eligibles were followed and eligible applicants on the register at the time of the interim appointment were notified that the interim appointment could change to a regular appointment at a later time.
- (5) **Seasonal Appointment.** Seasonal appointments may be made to seasonal positions in the executive service. Seasonal appointments do not require the use of certificates or lists.
- (6) **Temporary Appointment.** A temporary appointment is an appointment to an executive service position for a limited period, usually less than six (6) months. Temporary appointments do not require the use of certificates or lists.
- (7) **Limited-Term Appointment.** The governor, the governor's cabinet, and members of boards, commissions, agencies and authorities receive limited-term appointments. Limited-term appointments do not require the use of certificates or lists.
- (8) **Reemployment of Former State Employees.** A former career service employee who separates from State government is eligible for reemployment without further examination or certification to any classification in which the employee formerly held career status or to any related classification to which the employee could have been demoted, reduced in rank or transferred without further examination or certification, provided the employee returns to the career service within three (3) years of the date of separation from State employment. The three (3) year reemployment eligibility period commences with the employee's separation from State government and expires three (3) years later, regardless of subsequent State employment. A former State government employee who obtains career status in a classification and holds the same career service classification in State government for five (5) or more years has permanent reemployment eligibility to that classification and to any related classification to which the employee could have been demoted, reduced in rank or transferred without further examination or certification. Permanent reemployment eligibility is based on an employee's cumulative periods of employment in classification and not on a continuous employment period.

(Rule 1120-2-.10, continued)

- (9) **Reappointment of Current State Employees.** Any State employee who is a current or former career service employee is eligible for appointment to any classification in which the employee formerly held career status or to any related classification to which the employee could have been demoted, reduced in rank or transferred without further examination or certification, provided the employee has not had a break in State government employment.
- (10) **Appointments to Flexibly Staffed Positions.** When a vacancy in a flexibly staffed position in the career service is to be filled, the Commissioner shall furnish the appropriate certificate of eligibles as requested by the appointing authority. Any eligible appointed to a flexibly staffed position from the certificate of eligibles for either the trainee or working level classification shall serve a period of probationary employment as prescribed by the Commissioner for the classification. During the last month of the probationary period the appointing authority shall certify to the Commissioner whether the employee has successfully completed the period of probationary employment and should therefore be made a career employee in the position in the working level classification without further examination or certification. The employee should be removed from the position if the probationary period has not been successfully completed. Such notification should be made in the same manner as prescribed for any other period of probationary employment.

**Authority:** T.C.A. §§8-30-202, 8-30-203, 8-30-204, 8-30-309, 8-30-311, 8-30-315, 8-30-312, 8-30-314, 8-30-315, 8-30-316, and 8-30-323. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994.

#### **1120-2.11 PROBATIONARY PERIOD.**

- (1) **Purpose of the Probationary Period.** The probationary period is an essential part of the employment process, and is used for the adjustment of an employee to a new position and to provide an employee with the opportunity to demonstrate ability to perform the job.
- (2) **Probationary Period for the Career Service.** For career service positions a probationary period of at least six months is required for all employees who receive regular appointments from a certificate of eligibles, and may be required at the discretion of the appointing authority for employees who receive regular appointments through reemployment, reappointment, demotion, voluntary reduction in rank or interdepartmental transfers. The probationary period for a regular appointment may be reduced by the amount of time served in a temporary provisional, emergency or interim appointment provided the appointment is for the same appointing authority in the same class of positions and there is no break in service. Employees serving temporary provisional, emergency or interim appointments do not serve a probationary period. Successful completion of a probationary period in a trainee classification in a flexibly staffed position satisfies the probationary period requirement necessary for career status in the working level classification.
- (3) **Duration of the Probationary Period.** A period of probation is completed at the end of the pay period during which the incumbent completes the number of months of probationary status required for the class of positions.
- (4) **Initial Probationary Period.** The initial probationary period is the first probationary period served in a department or agency in a continuous period of employment pursuant to becoming a career employee in that agency.
  - (a) An employee on initial probation may not be dismissed for cause relating to performance of duties before completion of one month's service. Employees dismissed during their initial probationary period have neither right of appeal nor right of hearing. The reason for dismissal must be submitted to the Commissioner in writing. Initial probationary employees not terminated or otherwise removed from the classification by the end of the probationary period become career employees.

(Rule 1120-2-.11, continued)

- (5) Subsequent Probationary Period. Probationary periods served under the same appointing authority after having career status in that agency are subsequent probations. Career employees serving subsequent probations have appeal rights but may be demoted to their former classification without right of appeal. Employees serving a subsequent probationary period retain career status in the classification in which that status was most recently attained.
- (6) Promotion During Probation. The probationary period for the class of positions to which an employee on probation is promoted begins with the date of appointment to such higher classification. If the newly promoted employee was on initial probation at the time of promotion, the new probationary period will be considered to be the initial probationary period. An employee on subsequent probation receiving a promotion to a class of positions under an appointing authority which constitutes the employee's first probationary period for that agency shall be placed on initial probation. Names of employees on initial probation will not appear on promotional certificates of eligibles.
- (7) Probation for the Executive Service. Any applicant or employee receiving an appointment in the executive service shall not be required to serve a probationary period.

**Authority:** T.C.A. §§8-30-312 and 8-30-314. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2) Repeal and new rule filed November 18, 1987; effective January 2, 1988.

#### **1120-2-.12 PROMOTIONS.**

- (1) Methods of Making Promotions. A vacancy in the career service may be filled by the promotion of a qualified employee. Promotions between departments or agencies must be approved by the appointing authorities concerned. Promotions of employees to regular career service appointments will be made by a competitive process as determined by the Commissioner. Any employee who has been demoted or reduced in rank may, at the discretion of the appointing authority, with the approval of the Commissioner, be promoted to a career service position in a classification without additional examination or certification if the employee was a career employee in that classification.
- (2) Promotion by Competitive Examination. If it is determined by the Commissioner and the appointing authority to fill a vacancy by a promotional examination, such promotion will be made in accordance with the applicable provisions of 1120-2-.08. The promotional certificate resulting from such examination will be established in accordance with the applicable provisions of 1120-2-.06.
- (3) Promotions in the Executive Service. An appointing authority may promote any qualified employee to a position in the executive service. Any applicant so promoted must meet all established minimum qualifications as determined by the appointing authority and approved by the Commissioner.

**Authority:** T.C.A. §§8-30-305, 8-30-309, and 8-30-311. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2) Repeal and new rule filed November 18, 1987; effective January 2, 1988.

#### **1120-2-.13 TRANSFER, LATERAL RECLASSIFICATION, DEMOTION AND REDUCTION IN RANK.**

- (1) Transfer. A transfer is authorized in accordance with the following:
  - (a) An appointing authority may transfer any employee from a position in one work unit to a position in the same classification in another work unit in the same agency with the approval of the Commissioner.
  - (b) An employee may be transferred from a position in one agency to a position in the same classification in another agency with the approval of both appointing authorities and the Commissioner. Such transfers may require the serving of an initial probationary period in the new agency at the discretion of the appointing authority.

(Rule 1120-2-.13, continued)

- (c) No transfer can be approved from the executive service to the career service unless the employee is eligible for reemployment in the career service in the classification or is appointed from a certificate of eligibles. All transfers between agencies must be approved by the Commissioner.
- (2) Lateral Reclassification. A lateral reclassification is authorized in accordance with the following:
  - (a) An appointing authority may laterally reclassify any employee from a position in one work unit to a position in another classification in another work unit in the same agency with the approval of the Commissioner.
  - (b) An employee may be laterally reclassified from a position in one agency to a position in another classification in another agency with the approval of both appointing authorities and the Commissioner. Such lateral reclassifications may require the serving of an initial probationary period in the new agency at the discretion of the appointing authority.
  - (c) No lateral reclassification can be approved from the executive service to the career service unless the employee is eligible for reemployment in the career service in the classification or is appointed from a certificate of eligibles. All lateral reclassifications between agencies must be approved by the Commissioner.
- (3) Demotion. A career service employee may be demoted after written notice has been given the Commissioner and the employee at least ten (10) days prior to the effective date. A demotion may be made when the employee is unwilling or unable to render satisfactory service in the position held but is considered worthy of employment in a position of lower rank. A demoted employee may be required to serve a probationary period.

A demotion may require a salary reduction and the completion of an initial or subsequent probationary period. If the employee has previously held career status in the job classification demoted to in the same agency, the employee is not placed on probation. If the employee has not held career status in the job classification demoted to in the agency, the appointing authority may require a probationary period. If the employee changes agencies in the transaction, the new appointing authority may require an initial probationary period. Employees demoted to career service positions are not eligible to retain a salary rate above the top of the salary range for the new classification.

- (4) Involuntary Reduction in Rank. An involuntary reduction in rank occurs when the position occupied by an employee has been or is about to be discontinued as a result of lack of funds, curtailment of work, abolishment, reclassification or agency reorganization. An involuntary reduction in rank is not considered a demotion.

Employees receiving an involuntary reduction in rank do not serve an additional probationary period. Under an involuntary reduction in rank an employee's salary may be reduced only to the top step of the salary range of the new job classification. Employees receiving involuntary reductions in rank may retain a salary rate above the salary range for the new job classification with the approval of the appointing authority and the Commissioner.

- (5) Voluntary Reduction in Rank. A voluntary reduction in rank occurs when an employee requests assignment to a position of lower rank and the agency concurs. Such request may be based on dissatisfaction with the present position or a desire on the part of the employee for an occupational, geographic, or other change. A voluntary reduction in rank may require a salary reduction and a requirement for the completion of an initial or subsequent probationary period. A voluntary reduction in rank is not considered a demotion.

(Rule 1120-2-.13, continued)

**Authority:** T.C.A. §§8-30-214 and 8-30-318. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2) Repeal and new rule filed November 18, 1987; effective January 2, 1988. Amendment filed August 25, 1994; effective December 29, 1994.

#### **1120-2-.14 TENURE, SUSPENSION AND SEPARATION.**

- (1) **Tenure of Office.** The service of career employees is contingent on both satisfactory conduct and satisfactory performance. Satisfactory performance is evidenced by the employee's current performance evaluation. This provision, however, does not prevent the separation of an employee for lack of funds, lack of work, or abolishment of a position when made in accordance with a reduction in force plan approved by the Commissioner.
- (2) **Suspension.** After giving written notice to the employee an appointing authority may suspend the employee without pay for disciplinary purposes for a period not to exceed thirty (30) calendar days in any twelve (12) month period. The appointing authority must file with the Commissioner a written statement of the cause for such action which will be made a part of the employee's personnel file. An appointing authority may suspend an employee with or without pay for a period greater than thirty (30) days pending the investigation or trial of any charges with prior approval of the Commissioner.
- (3) **Layoff/Reduction-in-Force.** An appointing authority may implement a layoff/reduction in force, in accordance with the provisions of T.C.A. 8-30-320 and T.C.A. 8-30-322, as a result of lack of funds, curtailment of work, changes in organizational structure or abolishment or reclassification of positions. Performance evaluation ratings of employees affected by reductions in force and whose seniority calculations produce an order of layoff difference of less than one year will be considered as follows: employees whose most recent evaluation is good (3), superior (4), or exceptional (5) will be given preference over those whose most recent rating on record is an unacceptable (1) or marginal (2).
- (4) **Resignations.** An employee who resigns may state the reasons in writing to the appointing authority. A copy of the resignation shall be forwarded by the appointing authority to the Commissioner.
- (5) **Job Abandonment.** An employee who is absent from duty for more than three (3) consecutive business days without giving notice to the appointing authority or appropriate manager concerning the reason for such absence and without securing permission to be on leave, or who fails to report for duty or to the immediate supervisor or the appointing authority within two (2) business days after the expiration of any authorized leave of absence, absent unusual circumstances causing the employee's absence or preventing the employee's return, is considered as having resigned not in good standing.
- (6) **Dismissal.** An appointing authority may dismiss a career employee for either unsatisfactory conduct or unsatisfactory performance. Executive service employees serve at the pleasure of the appointing authority.
- (7) **Reemployment Recommendation.** Whenever an employee leaves State employment the appointing authority may make a recommendation concerning reemployment.

**Authority:** T.C.A. §§8-30-320, 8-30-321, 8-30-325, and 8-30-326. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2) Repeal and new rule filed November 18, 1987; effective January 2, 1988.

#### **1120-2-.15 CERTIFICATION OF PAYROLLS.**

- (1) **Certification of Payrolls.** All payments for personal service to any person holding a position in the State service must be submitted by the appointing authority to the Commissioner, on the payroll form prescribed by the Commissioner and the Commissioner of Finance and Administration for approval and must bear the certification of the Commissioner before it may be honored by the Department of Finance and Administration. The Commissioner shall determine that the persons named on the payroll

(Rule 1120-2-.15, continued)

have been appointed or employed in accordance with the Act and applicable rules, and that the salary rate is in accordance with the compensation plan before certification of that payroll for payment.

- (2) **Refusal to Certify.** If the Commissioner determines that a person on the payroll has not been appointed or paid in conformity with the provisions of the Act and these rules, the Commissioner will refuse to certify the payroll on which the employee's name appears. If the Commissioner refuses to certify a name on the payroll, that name must be removed from the payroll and the organizational unit notified of the action and the reason for the refusal. The payroll on which the name appears may then be certified if all additional persons have been appointed or paid in accordance with the provisions of these rules and the Act. The removal of a name or item from the payroll shall serve as official notification to the Department of Finance and Administration that the drawing, signing or issuing of any warrant by any disbursing officer of the State for the payment of salary or compensation to such person is unlawful.
- (3) **Illegal Payments.** Any appointing authority who appoints or employs any person in violation of the Act and these rules may be required to pay the agreed upon salary. Any such amount so paid will not be reimbursed by the State.

**Authority:** T.C.A. §§8-30-202, 8-30-203, 8-30-204, 8-30-216, and 8-30-217. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2) Repeal and new rule filed November 18, 1987; effective January 2, 1988.

#### **1120-2-.16 RECORDS AND REPORTS.**

- (1) **Roster of State Employees.** The Commissioner shall maintain a roster of all State service employees in such form deemed advisable, showing the name, title of position, organizational unit to which assigned, salary, changes in classification, pay or status, and such other data as may be desirable and pertinent.
- (2) **Other Records.** The Commissioner will maintain other records necessary to carry out the intent and purpose of the Act and these rules, and cause to be maintained in each agency a personnel file on each active employee. These files are to be maintained in accordance with policy established by the Commissioner.
- (3) **Reports from Appointing Authorities.** The appointing authorities will report to the Commissioner in a manner prescribed by the Commissioner all permanent changes in the status of employees under their jurisdiction. The appointing authorities may also be required to make other reports regarding the employees under their jurisdiction by the Commissioner.
- (4) **Investigations.** The Commissioner has the right of the records, books, papers and other documents of any organizational unit pertinent to any investigation which may be necessary or which the Governor or the Commission may direct to be conducted.

**Authority:** T.C.A. 8-30-202, 8-30-203, and 8-30-204. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2) Repeal and new rule filed November 18, 1987; effective January 2, 1988.

**1120-2-.17 ADOPTION AND AMENDMENT OF POLICIES AND PROCEDURES.** The Commissioner shall establish such policy and procedure necessary to carry out the provisions of these rules.

**Authority:** T.C.A. 8-30-201, 8-30-202, 8-30-203, and 8-30-204. **Administrative History:** (For history prior to January 2, 1988, see pages 1-2) Repeal and new rule filed November 18, 1987; effective January 2, 1988.